

REMARKS

Claims 19, 20, 24, 26, 27, 29, 32 and 34 to 36 are pending and now being considered.

Applicants respectfully request reconsideration of the present application in view of this response.

As to the objections to claims 19, 24, 27 and 32, the objections are not sustainable based on established law as to the claimed subject matter. Nevertheless, to facilitate matters, the claims have been rewritten to better clarify the claimed subject matter. The claims as presented are plainly directed to structure. Approval and entry are respectfully requested, as is withdrawal of the claim objections.

As to the objections to claims 27 and 29, the claims have been rewritten to make the grammatical corrections, as suggested. Approval and entry are respectfully requested, as is withdrawal of the claim objections.

As to the objections to claims 32 and 34, the claims have been rewritten where appropriate to make the grammatical corrections, as suggested. There is no error as cited as to claim 34. Approval and entry are respectfully requested, as is withdrawal of the claim objections.

Claims 19, 20, 24, 26, 27, 29, 32 and 34 to 36 were rejected under 35 U.S.C. § 103(a) as unpatentable over Donovan et al., U.S. Patent No. 6,122,281, in view of Romeijn, U.S. Patent No. 5,457,691.

As to obviousness, in rejecting a claim under 35 U.S.C. § 103(a), the Office bears the initial burden of presenting a *prima facie* case of obviousness. In re Rijckaert, 9 F.3d 1531, 1532, 28 U.S.P.Q.2d 1955, 1956 (Fed. Cir. 1993). To establish *prima facie* obviousness, three criteria must be satisfied. First, there must be some suggestion or motivation to modify or combine reference teachings. In re Fine, 837 F.2d 1071, 5 U.S.P.Q.2d 1596 (Fed. Cir. 1988). This teaching or suggestion to make the claimed combination must be found in the prior art and not based on the application disclosure. In re Vaeck, 947 F.2d 488, 20 U.S.P.Q.2d 1438 (Fed. Cir. 1991). Second, there must be a reasonable expectation of success. In re Merck & Co., Inc., 800 F.2d 1091, 231 U.S.P.Q. 375 (Fed. Cir. 1986). Third, the prior art reference(s) must teach or suggest all of the claim features. In re Royka, 490 F.2d 981, 180 U.S.P.Q. 580 (C.C.P.A. 1974).

As further regards the obviousness rejections, to reject a claim as obvious under 35 U.S.C. § 103, the prior art must disclose or suggest each claim element and there must be a motivation or suggestion for combining the elements in the manner contemplated by the claim. (See Northern Telecom, Inc. v. Datapoint Corp., 908 F.2d 931, 934 (Fed. Cir. 1990), cert. denied, 111 S. Ct. 296 (1990); In re Bond, 910 F.2d 831, 834 (Fed. Cir. 1990)). Thus, the “problem confronted by the inventor must be considered in determining whether it would have been obvious to combine the references in order to solve the problem”, Diversitech Corp. v. Century Steps, Inc., 850 F.2d 675, 679 (Fed. Cir. 1998). The references relied upon simply do not address the problems (referred to in the present application) that are met by the subject matter of any of the rejected claims.

While the rejections may not be agreed with, to facilitate matters, the claims have been rewritten. The further features are supported by the disclosure of the Specification at page 5, lines 4 to 24, page 9, lines 17 to 21, and page 27, lines 27 to 34.

As to the obviousness rejections, the Donovan reference does not disclose nor suggest the feature of “mapping the data streams into an SDH section payload without adding any SDH path overhead” -- as the Final Office Action admits. Even if the Romeijin reference did refer to eliminating the VC-4 container overhead, the Romeijin makes plain that the cross connect node switches data at the VC-12 level (column 3/lines 25-30, for example). This means that an SDH section payload includes an SDH path overhead for VC-12 in Romeijin, so that Romeijin, whether taken alone or combined, does not disclose the claimed subject matter of claim 19, as presented.

Claim 27, as presented, includes features like those of claim 19, as presented, and is therefore allowable for essentially the same reasons, as is its dependent claim 29. As further regards claim 27, the applied references do not disclose nor suggest the claim feature of performing a “buffering process for the data of the SDH section payload to generate data streams” and for “extract[ing] the packets from the data streams by using at least one data link layer process”. Accordingly, claim 27 is allowable for these further reasons.

Claim 32, as presented, includes features like those of claims 19 and 27, as presented, and is therefore allowable for essentially the same reasons, as is its dependent claim 34.

Claim 35, as presented, includes features like those of claim 19, as presented, and is therefore allowable for essentially the same reasons.

Claim 36, as presented, includes features like those of claim 19, as presented, and is therefore allowable for essentially the same reasons.

In summary, it is respectfully submitted that all of claims 19, 20, 24, 26, 27, 29, 32 and 34 to 36 of the present application are allowable at least for the foregoing reasons.

CONCLUSION

In view of the foregoing, it is believed that the objections and rejections have been obviated, and that claims 19, 20, 24, 26, 27, 29, 32 and 34 to 36 are allowable. It is therefore respectfully requested that the objections and rejections be withdrawn, and that the present application issue as early as possible.

Respectfully submitted,

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